



Sen. Don Harmon

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09400SB2955sam001

LRB094 17947 WGH 55909 a

1 AMENDMENT TO SENATE BILL 2955

2 AMENDMENT NO. _____. Amend Senate Bill 2955 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Unemployment Insurance Act is amended by
5 changing Sections 702, 703, 705, 706, 800, 801, 802, 803, 805,
6 806, 900, 1000, 1001, 1002, 1003, 1004, 1200, 1508, 1508.1,
7 1800, 2202, 2203, 2300, and 2306 and adding Section 802.1 as
8 follows:

9 (820 ILCS 405/702) (from Ch. 48, par. 452)

10 Sec. 702. Determinations. The claims adjudicator shall for
11 each week with respect to which the claimant claims benefits or
12 waiting period credit, make a "determination" which shall state
13 whether or not the claimant is eligible for such benefits or
14 waiting period credit and the sum to be paid the claimant with
15 respect to such week. The claims adjudicator shall promptly
16 notify the claimant and such employing unit as shall, within
17 the time and in the manner prescribed by the Director, have
18 filed a sufficient allegation that the claimant is ineligible
19 to receive benefits or waiting period credit for said week, of
20 his "determination" and the reasons therefor. In making his
21 "determination," the claims adjudicator shall give
22 consideration to the information, if any, contained in the
23 employing unit's allegation, whether or not the allegation is
24 sufficient. The claims adjudicator shall deem an employing

1 unit's allegation sufficient only if it contains a reason or
2 reasons therefor (other than general conclusions of law, and
3 statements such as "not actively seeking work" or "not
4 available for work" shall be deemed, for this purpose, to be
5 conclusions of law). If the claims adjudicator deems an
6 allegation insufficient, he shall make a decision accordingly,
7 and shall notify the employing unit of such decision and the
8 reasons therefor. Such decision may be appealed by the
9 employing unit to an administrative law judge ~~a Referee~~ within
10 the time limits prescribed by Section 800 for appeal from a
11 "determination". Any such appeal, and any appeal from the
12 administrative law judge's ~~Referee's~~ decision thereon, shall
13 be governed by the applicable provisions of Sections 801, 803,
14 804 and 805.

15 (Source: P.A. 81-1521.)

16 (820 ILCS 405/703) (from Ch. 48, par. 453)

17 Sec. 703. Reconsideration of findings or determinations.
18 The claims adjudicator may reconsider his finding at any time
19 within thirteen weeks after the close of the benefit year. He
20 may reconsider his determination at any time within one year
21 after the last day of the week for which the determination was
22 made, except that if the issue is whether or not, by reason of
23 a back pay award made by any governmental agency or pursuant to
24 arbitration proceedings, or by reason of a payment of wages
25 wrongfully withheld by an employing unit, an individual has
26 received wages for a week with respect to which he or she has
27 received benefits or if the issue is whether or not the
28 claimant misstated his earnings for the week, such reconsidered
29 determination may be made at any time within 3 years after the
30 last day of the week. No finding or determination shall be
31 reconsidered at any time after appeal therefrom has been taken
32 pursuant to the provisions of Section 800, except where a case
33 has been remanded to the claims adjudicator by an

1 administrative law judge ~~a Referee~~, the Director or the Board
2 of Review, and except, further, that if an issue as to whether
3 or not the claimant misstated his earnings is newly discovered,
4 the determination may be reconsidered after and
5 notwithstanding the fact that the decision upon the appeal has
6 become final. Notice of such reconsidered determination or
7 reconsidered finding shall be promptly given to the parties
8 entitled to notice of the original determination or finding, as
9 the case may be, in the same manner as is prescribed therefor,
10 and such reconsidered determination or reconsidered finding
11 shall be subject to appeal in the same manner and shall be
12 given the same effect as is provided for an original
13 determination or finding.

14 (Source: P.A. 92-396, eff. 1-1-02.)

15 (820 ILCS 405/705) (from Ch. 48, par. 455)

16 Sec. 705. Effect of finality of finding of claims
17 adjudicator, administrative law judge ~~referee~~, or board of
18 review - estoppel. If, in any "finding" made by a claims
19 adjudicator or in any decision rendered by an administrative
20 law judge ~~a Referee~~ or the Board of Review, it is found that
21 the claimant has been paid wages for insured work by any
22 employing unit or units in his base period, and such "finding"
23 of the claims adjudicator or decision of the administrative law
24 judge ~~Referee~~ or the Board of Review becomes final, each such
25 employing unit as shall have been a party to the claims
26 adjudicator's "finding" as provided in Section 701, or to the
27 proceedings before the administrative law judge ~~Referee~~, or the
28 Board of Review, and shall have been given notice of such
29 "finding" of the claims adjudicator, or proceedings before the
30 administrative law judge ~~Referee~~ or the Board of Review, as the
31 case may be, and an opportunity to be heard, shall be forever
32 estopped to deny in any proceeding whatsoever that during such
33 base period it was an employer as defined by this Act, that the

1 wages paid by such employing unit to the claimant were wages
2 for insured work, and that the wages paid by it for services
3 rendered for it by any individual under circumstances
4 substantially the same as those under which the claimant's
5 services were performed were wages for insured work.

6 (Source: P.A. 77-1443.)

7 (820 ILCS 405/706) (from Ch. 48, par. 456)

8 Sec. 706. Benefits undisputed or allowed - Prompt payment.
9 Benefits shall be paid promptly in accordance with a claims
10 adjudicator's finding and determination, or reconsidered
11 finding or reconsidered determination, or the decision of an
12 administrative law judge ~~a Referee~~, the Board of Review or a
13 reviewing court, upon the issuance of such finding and
14 determination, reconsidered finding, reconsidered
15 determination or decision, regardless of the pendency of the
16 period to apply for reconsideration, file an appeal, or file a
17 complaint for judicial review, or the pendency of any such
18 application or filing, unless and until such finding,
19 determination, reconsidered finding, reconsidered
20 determination or decision has been modified or reversed by a
21 subsequent reconsidered finding or reconsidered determination
22 or decision, in which event benefits shall be paid or denied
23 with respect to weeks thereafter in accordance with such
24 reconsidered finding, reconsidered determination, or modified
25 or reversed finding, determination, reconsidered finding,
26 reconsidered determination or decision. If benefits are paid
27 pursuant to a finding or a determination, or a reconsidered
28 finding, or a reconsidered determination, or a decision of an
29 administrative law judge ~~a Referee~~, the Board of Review or a
30 court, which is finally reversed or modified in subsequent
31 proceedings with respect thereto, the benefit wages on which
32 such benefits are based shall, for the purposes set forth in
33 Section 1502, or benefit charges, for purposes set forth in

1 Section 1502.1, be treated in the same manner as if such final
2 reconsidered finding, reconsidered determination, or decision
3 had been the finding or determination of the claims
4 adjudicator.

5 (Source: P.A. 85-956.)

6 (820 ILCS 405/800) (from Ch. 48, par. 470)

7 Sec. 800. Appeals to administrative law judge ~~referee~~ or
8 director. Except as hereinafter provided, appeals from a claims
9 adjudicator shall be taken to an administrative law judge ~~a~~
10 ~~Referee~~. Whenever a "determination" of a claims adjudicator
11 involves a decision as to eligibility under Section 604,
12 appeals shall be taken to the Director, who may designate an
13 administrative law judge to conduct a hearing and issue a
14 recommended decision ~~or his representative designated for such~~
15 ~~purpose~~. Unless the claimant or any other party entitled to
16 notice of the claims adjudicator's "finding" or
17 "determination," as the case may be, or the Director, within 30
18 calendar days after the delivery of the claims adjudicator's
19 notification of such "finding" or "determination," or within 30
20 calendar days after such notification was mailed to his last
21 known address, files an appeal therefrom, such "finding" or
22 "determination" shall be final as to all parties given notice
23 thereof.

24 (Source: P.A. 81-1521.)

25 (820 ILCS 405/801) (from Ch. 48, par. 471)

26 Sec. 801. Decision of administrative law judge ~~referee~~ or
27 director.

28 A. Unless such appeal is withdrawn, an administrative law
29 judge ~~a Referee~~ or the Director, as the case may be, shall
30 afford the parties reasonable opportunity for a fair hearing.
31 At any hearing, the record of the claimant's registration for
32 work, or of the claimant's certification that, during the week

1 or weeks affected by the hearing, he was able to work,
2 available for work, and actively seeking work, or any document
3 in the files of the Department of Employment Security submitted
4 to it by any of the parties, shall be a part of the record, and
5 shall be competent evidence bearing upon the issues. The
6 failure of the claimant or other party to appear at a hearing,
7 unless he is the appellant, shall not preclude a decision in
8 his favor if, on the basis of all the information in the
9 record, he is entitled to such decision. The decision of the
10 administrative law judge ~~Referee~~ or the Director, as the case
11 may be, shall affirm, modify, or set aside the claims
12 adjudicator's "finding" or "determination," or both, as the
13 case may be, or may remand the case, in whole or in part, to the
14 claims adjudicator, and, in such event, shall state the
15 questions requiring further consideration, and give such other
16 instructions as may be necessary. The parties shall be duly
17 notified of such decision, together with the reasons therefor.
18 The decision of the administrative law judge ~~Referee~~ shall be
19 final, unless, within 30 calendar days after the date of
20 mailing of such decision, further appeal to the Board of Review
21 is initiated pursuant to Section 803.

22 B. Except as otherwise provided in this subsection, the
23 Director may by regulation allow the administrative law judge
24 ~~Referee~~, upon the request of a party for good cause shown,
25 before or after the administrative law judge ~~Referee~~ issues his
26 decision, to reopen the record to take additional evidence or
27 to reconsider the administrative law judge's ~~Referee's~~
28 decision or both to reopen the record and reconsider the
29 administrative law judge's ~~Referee's~~ decision. Where the
30 administrative law judge ~~Referee~~ issues a decision, he shall
31 not reconsider his decision or reopen the record to take
32 additional evidence after an appeal of the decision is
33 initiated pursuant to Section 803 or if the request is made
34 more than 30 calendar days, or fewer days if prescribed by the

1 Director, after the date of mailing of the administrative law
2 judge's ~~Referee's~~ decision. The allowance or denial of a
3 request to reopen the record, where the request is made before
4 the administrative law judge ~~Referee~~ issues a decision, is not
5 separately appealable but may be raised as part of the appeal
6 of the administrative law judge's ~~Referee's~~ decision. The
7 allowance of a request to reconsider is not separately
8 appealable but may be raised as part of the appeal of the
9 administrative law judge's ~~Referee's~~ reconsidered decision. A
10 party may appeal the denial of a timely request to reconsider a
11 decision within 30 calendar days after the date of mailing of
12 notice of such denial, and any such appeal shall constitute a
13 timely appeal of both the denial of the request to reconsider
14 and the administrative law judge's ~~Referee's~~ decision.
15 Whenever reference is made in this Act to the administrative
16 law judge's ~~Referee's~~ decision, the term "decision" includes a
17 reconsidered decision under this subsection.

18 (Source: P.A. 88-655, eff. 9-16-94.)

19 (820 ILCS 405/802) (from Ch. 48, par. 472)

20 Sec. 802. Appointment of administrative law judges
21 ~~referees~~ and providing legal services in disputed claims.

22 A. To hear and decide disputed claims or, in the case of a
23 matter under Section 604, issue a recommended decision, the
24 Director shall obtain an adequate number of impartial
25 administrative law judges ~~Referees~~ selected in accordance with
26 the provisions of the "Personnel Code" enacted by the
27 Sixty-ninth General Assembly. No person shall participate on
28 behalf of the Director or the Board of Review in any case in
29 which he is an interested party. The Director shall provide the
30 Board of Review and such administrative law judges ~~Referees~~
31 with proper facilities and supplies and with assistants and
32 employees (selected in accordance with the provisions of the
33 "Personnel Code" enacted by the Sixty-ninth General Assembly)

1 necessary for the execution of their functions.

2 B. As provided in Section 1700.1, effective January 1,
3 1989, the Director shall establish a program for providing
4 services by licensed attorneys at law to advise and represent,
5 at hearings before the administrative law judge Referee, the
6 Director ~~or the Director's Representative~~, or the Board of
7 Review, "small employers", as defined in rules promulgated by
8 the Director, and issued pursuant to the results of the study
9 referred to in Section 1700.1, and individuals who have made a
10 claim for benefits with respect to a week of unemployment,
11 whose claim has been disputed, and who are eligible under rules
12 promulgated by the Director which are issued pursuant to the
13 results of the study referred to in Section 1700.1.

14 For the period beginning July 1, 1994, and extending
15 through June 30, 1996, no legal services shall be provided
16 under the program established under this subsection.

17 For the period beginning July 1, 1990, and extending
18 through June 30, 1991, no legal services shall be provided
19 under the program established pursuant to this subsection.

20 (Source: P.A. 88-655, eff. 9-16-94; 89-21, eff. 6-6-95.)

21 (820 ILCS 405/802.1 new)

22 Sec. 802.1. Administrative law judges.

23 A. On and after the effective date of this amendatory Act
24 of the 94th General Assembly, referees and Director's
25 representatives shall be referred to as administrative law
26 judges. This amendatory Act of the 94th General Assembly is not
27 intended to change the salary grade, collective bargaining
28 classification or title or compensation of any person. The
29 following standards apply to the performance of an
30 administrative law judge's duties and responsibilities:

31 (1) An administrative law judge shall be impartial,
32 faithful to the law and maintain professional competence in
33 it.

1 (2) An administrative law judge shall maintain order
2 and decorum in proceedings before him or her.

3 (3) An administrative law judge shall be patient,
4 dignified, and courteous to parties, witnesses, parties'
5 representatives, and others with whom the administrative
6 law judge deals in an official capacity, including but not
7 limited to during any hearing the administrative law judge
8 conducts.

9 (4) An administrative law judge shall refrain from
10 making any discourteous, intemperate, or undignified
11 comments in the preparation of a written decision, draft
12 decision, or recommended decision and shall not engage in
13 any conduct that brings the Department into disrepute.

14 (5) An administrative law judge shall accord to every
15 person the right to be heard in any proceeding before him
16 or her as may be provided for by law.

17 (6) An administrative law judge is an employee of the
18 Department and is also subject to any general code of
19 conduct applicable to all Department employees, including
20 but not limited to any code of ethics and any disciplinary
21 action authorized for violations of any such code. This
22 paragraph shall not be construed to interfere with or
23 constrain the administrative law judge's responsibility to
24 prepare and issue a decision, draft decision or recommended
25 decision based on his or her application of the law as he
26 or she understands it to the facts of a particular case as
27 he or she understands them.

28 (7) Prior to the taking of an appeal to the Board of
29 Review, an administrative law judge's work product is
30 subject to review and correction by supervisory employees
31 of the Department, who shall be bound by this Section in
32 discharging their supervisory responsibilities.

33 (8) An administrative law judge shall not base a
34 decision, draft decision, or recommended decision on any

1 consideration not relevant under law to the issue before
2 him or her.

3 (9) An administrative law judge shall not perform
4 services as an administrative law judge while serving as a
5 member of the Board of Review or, in serving as a member of
6 the Board of Review, review any decision or draft decision
7 he or she issued as an administrative law judge.

8 (10) An administrative law judge shall report to the
9 Director any suspected violations of any of the standards
10 enumerated in this subsection A or rules adopted pursuant
11 to this Section.

12 B. The Department may, by rule, establish additional
13 standards of conduct consistent with recognized national model
14 codes of conduct for administrative law judges.

15 C. An administrative law judge shall be discharged for
16 repeated material violations of any of the standards enumerated
17 in subsection A or rules adopted pursuant to this Section or
18 the material violation of any of those standards in conjunction
19 with the simultaneous or previous material violation of any
20 other of those standards.

21 (820 ILCS 405/803) (from Ch. 48, par. 473)

22 Sec. 803. Board of review - Decisions. The Board of Review
23 may, on its own motion or upon appeal by any party to the
24 determination or finding, affirm, modify, or set aside any
25 decision of an administrative law judge ~~a Referee~~. The Board of
26 Review in its discretion, may take additional evidence in
27 hearing such appeals, or may remand the case, in whole or in
28 part, to an administrative law judge ~~a Referee~~ or claims
29 adjudicator, and, in such event, shall state the questions
30 requiring further consideration and give such other
31 instructions as may be necessary. The Director may remove to
32 the Board of Review or transfer to another administrative law
33 judge ~~Referee~~ the proceedings on any claim pending before an

1 administrative law judge ~~a Referee~~. Any proceedings so removed
2 to the Board of Review shall be heard in accordance with the
3 requirements of Section 801 by the Board of Review. At any
4 hearing before the Board of Review, in the absence or
5 disqualification of any member thereof representing either the
6 employee or employer class, the hearing shall be conducted by
7 the member not identified with either of such classes. Upon
8 receipt of an appeal by any party to the findings and decision
9 of an administrative law judge ~~a Referee~~, the Board of Review
10 shall promptly notify all parties entitled to notice of the
11 administrative law judge's ~~Referee's~~ decision that the appeal
12 has been filed, and shall inform each party of the right to
13 apply for a Notice of Right to Sue as provided for in this
14 Section. The Board of Review shall provide transcripts of the
15 proceedings before the administrative law judge ~~Referee~~ within
16 35 days of the date of the filing of an appeal by any party. The
17 Board of Review shall make a final determination on the appeal
18 within 120 days of the date of the filing of the appeal and
19 shall notify the parties of its final determination or finding,
20 or both, within the same 120 day period. The period for making
21 a final determination may be extended by the Board of Review to
22 no more than 30 additional days upon written request of either
23 party, for good cause shown.

24 At any time after the expiration of the aforesaid 120 day
25 period, or the expiration of any extension thereof, and prior
26 to the date the Board of Review makes a final determination on
27 the appeal, the party claiming to be aggrieved by the decision
28 of the administrative law judge ~~Referee~~ may apply in writing by
29 certified mail, return receipt requested, to the Board of
30 Review for a Notice of Right to Sue. The Board of Review shall
31 issue, within 14 days of the date that the application was
32 mailed to it, a Notice of Right to Sue to all parties entitled
33 to notice of the administrative law judge's ~~Referee's~~ decision,
34 unless, within that time, the Board has issued its final

1 decision. The Notice of Right to Sue shall notify the parties
2 that the findings and decision of the administrative law judge
3 ~~Referee~~ shall be the final administrative decision on the
4 appeal, and it shall further notify any party claiming to be
5 aggrieved thereby that he may seek judicial review of the final
6 decision of the administrative law judge ~~referee~~ under the
7 provisions of the Administrative Review Law. If the Board
8 issues a Notice of Right to Sue, the date that such notice is
9 served upon the parties shall determine the time within which
10 to commence an action for judicial review. Any decision issued
11 by the Board after the aforesaid 14 day period shall be null
12 and void. If the Board fails to either issue its decision or
13 issue a Notice of Right to Sue within the prescribed 14 day
14 period, then the findings and decision of the administrative
15 law judge ~~Referee~~ shall, by operation of law, become the final
16 administrative decision on the appeal. In such an instance, the
17 period within which to commence an action for judicial review
18 pursuant to the Administrative Review Law shall begin to run on
19 the 15th day after the date of mailing of the application for
20 the Notice of Right to Sue. If no party applies for a Notice of
21 Right to Sue, the decision of the Board of Review, issued at
22 any time, shall be the final decision on the appeal.

23 (Source: P.A. 84-26.)

24 (820 ILCS 405/805) (from Ch. 48, par. 474a)

25 Sec. 805. Additional parties.

26 The Director, administrative law judge ~~Referee~~, and the
27 Board of Review, in any hearing involving benefit claims, may
28 add parties, whenever in his or its discretion, it is necessary
29 to the proper disposition of the case. Such additional parties
30 shall be entitled to reasonable notice of the proceedings and
31 an opportunity to be heard.

32 (Source: Laws 1951, p. 844.)

1 (820 ILCS 405/806) (from Ch. 48, par. 474b)

2 Sec. 806. Representation. Any individual or entity in any
3 proceeding before the Director ~~or his representative~~, or the
4 administrative law judge Referee or the Board of Review, may be
5 represented by a union or any duly authorized agent.

6 (Source: P.A. 85-956.)

7 (820 ILCS 405/900) (from Ch. 48, par. 490)

8 Sec. 900. Recoupment.) A. Whenever an individual has
9 received any sum as benefits for which he is found to have been
10 ineligible, the amount thereof may be recovered by suit in the
11 name of the People of the State of Illinois, or, from benefits
12 payable to him, may be recouped:

13 1. At any time, if, to receive such sum, he knowingly made
14 a false statement or knowingly failed to disclose a material
15 fact.

16 2. Within 3 years from any date prior to January 1, 1984,
17 on which he has been found to have been ineligible for any
18 other reason, pursuant to a reconsidered finding or a
19 reconsidered determination, or pursuant to the decision of a
20 Referee (or of the Director or his representative under Section
21 604) which modifies or sets aside a finding or a reconsidered
22 finding or a determination or a reconsidered determination; or
23 within 5 years from any date after December 31, 1983, on which
24 he has been found to have been ineligible for any other reason,
25 pursuant to a reconsidered finding or a reconsidered
26 determination, or pursuant to the decision of an administrative
27 law judge ~~a Referee~~ (or of the Director ~~or his representative~~
28 under Section 604) which modifies or sets aside a finding or a
29 reconsidered finding or a determination or a reconsidered
30 determination. Recoupment pursuant to the provisions of this
31 paragraph from benefits payable to an individual for any week
32 may be waived upon the individual's request, if the sum
33 referred to in paragraph A was received by the individual

1 without fault on his part and if such recoupment would be
2 against equity and good conscience. Such waiver may be denied
3 with respect to any subsequent week if, in that week, the facts
4 and circumstances upon which waiver was based no longer exist.

5 B. Whenever the claims adjudicator referred to in Section
6 702 decides that any sum received by a claimant as benefits
7 shall be recouped, or denies recoupment waiver requested by the
8 claimant, he shall promptly notify the claimant of his decision
9 and the reasons therefor. The decision and the notice thereof
10 shall state the amount to be recouped, the weeks with respect
11 to which such sum was received by the claimant, and the time
12 within which it may be recouped and, as the case may be, the
13 reasons for denial of recoupment waiver. The claims adjudicator
14 may reconsider his decision within one year after the date when
15 the decision was made. Such decision or reconsidered decision
16 may be appealed to an administrative law judge ~~a Referee~~ within
17 the time limits prescribed by Section 800 for appeal from a
18 determination. Any such appeal, and any appeal from the
19 administrative law judge's ~~Referee's~~ decision thereon, shall
20 be governed by the applicable provisions of Sections 801, 803,
21 804 and 805. No recoupment shall be begun until the expiration
22 of the time limits prescribed by Section 800 of this Act or, if
23 an appeal has been filed, until the decision of an
24 administrative law judge ~~a Referee~~ has been made thereon
25 affirming the decision of the Claims Adjudicator.

26 C. Any sums recovered under the provisions of this Section
27 shall be treated as repayments to the Director of sums
28 improperly obtained by the claimant.

29 D. Whenever, by reason of a back pay award made by any
30 governmental agency or pursuant to arbitration proceedings, or
31 by reason of a payment of wages wrongfully withheld by an
32 employing unit, an individual has received wages for weeks with
33 respect to which he has received benefits, the amount of such
34 benefits may be recouped or otherwise recovered as herein

1 provided. An employing unit making a back pay award to an
2 individual for weeks with respect to which the individual has
3 received benefits shall make the back pay award by check
4 payable jointly to the individual and to the Director.

5 E. The amount recouped pursuant to paragraph 2 of
6 subsection A from benefits payable to an individual for any
7 week shall not exceed 25% of the individual's weekly benefit
8 amount.

9 In addition to the remedies provided by this Section, when
10 an individual has received any sum as benefits for which he is
11 found to be ineligible, the Director may request the
12 Comptroller to withhold such sum in accordance with Section
13 10.05 of the State Comptroller Act. Benefits paid pursuant to
14 this Act shall not be subject to such withholding.

15 (Source: P.A. 85-956.)

16 (820 ILCS 405/1000) (from Ch. 48, par. 500)

17 Sec. 1000. Oaths- Certifications-Subpoenas.

18 The Director, claims adjudicator, or other representative
19 of the Director and any administrative law judge ~~Referee~~ and
20 the Board of Review, or any member thereof, shall have the
21 power, in the discharge of the duties imposed by this Act, to
22 administer oaths and affirmations, certify to all official
23 acts, and issue subpoenas to compel the attendance and
24 testimony of witnesses, and the production of papers, books,
25 accounts and documents deemed necessary as evidence in
26 connection with a disputed claim or the administration of this
27 Act.

28 (Source: P.A. 77-1443.)

29 (820 ILCS 405/1001) (from Ch. 48, par. 501)

30 Sec. 1001. Testimony-Immunity.

31 No person shall be excused from testifying or from
32 producing any papers, books, accounts, or documents in any

1 investigation or inquiry or upon any hearing, when ordered to
2 do so by the Director, Board of Review, or member thereof, or
3 any claims adjudicator, administrative law judge ~~Referee~~, or a
4 representative of the Director, upon the ground that the
5 testimony or evidence, documentary or otherwise, may tend to
6 incriminate him or subject him to a penalty or forfeiture. But
7 no person shall be prosecuted or subjected to any penalty or
8 forfeiture for or on account of any transaction, matter or
9 thing concerning which he may testify or produce evidence,
10 documentary or otherwise, before any such person or Board of
11 Review: Provided, that such immunity shall extend only to a
12 natural person, who, in obedience to a subpoena, and after
13 claiming his privilege, shall, upon order, give testimony under
14 oath or produce evidence, documentary or otherwise, under oath.
15 No person so testifying shall be exempt from prosecution and
16 punishment for perjury committed in so testifying.

17 (Source: P.A. 77-1443.)

18 (820 ILCS 405/1002) (from Ch. 48, par. 502)

19 Sec. 1002. Attendance of witnesses - Production of papers.
20 All subpoenas issued under the terms of this Act may be served
21 by any person of full age. The fees of witnesses for attendance
22 and travel shall be the same as fees of witnesses before the
23 circuit courts of this State, such fees to be paid when the
24 witness is excused from further attendance. The payment of such
25 fees shall be made in the same manner as are other expenses
26 incurred in the administration of this Act. A subpoena issued
27 shall be served in the same manner as a subpoena issued out of
28 a court.

29 Any person who shall be served with a subpoena to appear
30 and testify or to produce books, papers, accounts, or
31 documents, issued by the Director or by any claims adjudicator
32 or other representative of the Director, or by any
33 administrative law judge ~~Referee~~ or the Board of Review, or

1 member thereof, in the course of an inquiry, investigation, or
2 hearing conducted under any of the provisions of this Act, and
3 who refuses or neglects to appear or to testify or to produce
4 books, papers, accounts, and documents relevant to said
5 inquiry, investigation, or hearing as commanded in such
6 subpoena, shall be guilty of a Class A misdemeanor.

7 Any circuit court of this State, upon application by the
8 Director, or claims adjudicator, or other representative of the
9 Director, or by any administrative law judge ~~Referee~~ or the
10 Board of Review, or any member thereof, may, in its discretion,
11 compel the attendance of witnesses, the production of books,
12 papers, accounts, and documents, and the giving of testimony
13 before such person or Board by an attachment for contempt or
14 otherwise, in the same manner as production of evidence may be
15 compelled before the court.

16 (Source: P.A. 83-334.)

17 (820 ILCS 405/1003) (from Ch. 48, par. 503)

18 Sec. 1003. Depositions. The deposition of any witness
19 residing within or without the State may be taken at the
20 instance of any claims adjudicator, administrative law judge
21 ~~Referee~~, member of the Board of Review, field auditor,
22 ~~Director's representative~~, or any of the parties to any
23 proceeding arising under the provisions of this Act in the
24 manner prescribed by law for the taking of like depositions in
25 civil cases in the courts of this State. The Director may, at
26 the request of any such person, issue a dedimus potestatem or
27 commission under the seal of the Department of Employment
28 Security in the same manner as the proper clerk's office is
29 authorized to issue such dedimus potestatem or commission under
30 the seal of the court in connection with any matter pending in
31 the circuit courts of this State.

32 (Source: P.A. 83-1503.)

1 (820 ILCS 405/1004) (from Ch. 48, par. 504)

2 Sec. 1004. Record of proceedings.

3 The Director shall provide facilities for the taking of
4 testimony and the recording of proceedings at the hearings
5 before the Director, ~~his representative,~~ the Board of Review,
6 or an administrative law judge ~~a Referee~~. All expenses arising
7 pursuant to this Section shall be paid in the same manner as
8 other expenses incurred pursuant to this Act.

9 (Source: Laws 1951, p. 844.)

10 (820 ILCS 405/1200) (from Ch. 48, par. 530)

11 Sec. 1200. Compensation of attorneys. No fee shall be
12 charged any claimant in any proceeding under this Act by the
13 Director ~~or his representatives,~~ or by the administrative law
14 judge ~~Referees~~ or Board of Review, or by any court or the
15 clerks thereof except as provided herein.

16 Any individual claiming benefits in any proceeding before
17 the Director ~~or his representative,~~ or the administrative law
18 judge ~~Referee~~ or the Board of Review, ~~or his or its~~
19 ~~representatives,~~ or a court, may be represented by counsel or
20 other duly authorized agent; but no such counsel or agents
21 shall either charge or receive for such services more than an
22 amount approved by the Board of Review or, in cases arising
23 under Section 604, by the Director.

24 After reasonable notice and a hearing before the
25 Department's representative, any attorney found to be in
26 violation of any provision of this Section shall be required to
27 make restitution of any excess fees charged plus interest at a
28 reasonable rate as determined by the Department's
29 representative.

30 (Source: P.A. 93-215, eff. 1-1-04.)

31 (820 ILCS 405/1508) (from Ch. 48, par. 578)

32 Sec. 1508. Statement of benefit wages and statement of

1 benefit charges. The Director shall periodically furnish each
2 employer with a statement of the wages of his workers or former
3 workers which became his benefit wages together with the names
4 of such workers or former workers. The Director shall also
5 periodically furnish each employer with a statement of benefits
6 which became benefit charges together with the names of such
7 workers or former workers. Any such statement, in absence of an
8 application for revision thereof within 45 days from the date
9 of mailing of such statement to his last known address, shall
10 be conclusive and final upon the employer for all purposes and
11 in all proceedings whatsoever. Such application for revision
12 shall be in the form and manner prescribed by regulation of the
13 Director. If the Director shall deem any application for
14 revision insufficient, he shall rule such insufficient
15 application stricken and shall serve notice of such ruling and
16 the basis therefor upon the employer. Such ruling shall be
17 final and conclusive upon the employer unless he shall file a
18 sufficient application for revision within 20 days from the
19 date of service of notice of such ruling. Upon receipt of a
20 sufficient application for revision of such statement within
21 the time allowed, the Director shall order such application
22 allowed in whole or in part or shall order that such
23 application for revision be denied and shall serve notice upon
24 the employer of such order. Such order of the Director shall be
25 final and conclusive at the expiration of 20 days from the date
26 of service of such notice unless the employer shall have filed
27 with the Director a written protest and a petition for hearing,
28 specifying his objections thereto. Upon receipt of such
29 petition within the 20 days allowed, the Director shall fix the
30 time and place for a hearing and shall notify the employer
31 thereof. At any hearing held as herein provided, the order of
32 the Director shall be prima facie correct and the burden shall
33 be upon the protesting employer to prove that it is incorrect.
34 All of the provisions of this Act, applicable to hearings

1 conducted pursuant to Section 2200 and not inconsistent with
2 the provisions of this Section, shall be applicable to hearings
3 conducted pursuant to this Section. No employer shall have the
4 right to object to the benefit wages or benefit charges with
5 respect to any worker as shown on such statement unless he
6 shall first show that such benefit wages or benefit charges
7 arose as a result of benefits paid to such worker in accordance
8 with a finding, reconsidered finding, determination, or
9 reconsidered determination, or for 1987 or any calendar year
10 thereafter an administrative law judge's ~~a Referee's~~ decision,
11 to which such employer was a party entitled to notice thereof,
12 as provided by Sections 701 to 703, inclusive, or Section 800,
13 and shall further show that he was not notified of such
14 finding, reconsidered finding, determination, or reconsidered
15 determination, or for 1987 or any calendar year thereafter such
16 administrative law judge's ~~Referee's~~ decision, in accordance
17 with the requirements of Sections 701 to 703, inclusive, or
18 Section 800. Nothing herein contained shall abridge the right
19 of any employer at such hearing to object to such statement of
20 benefit wages or statement of benefit charges on the ground
21 that it is incorrect by reason of a clerical error made by the
22 Director or any of his employees. The employer shall be
23 promptly notified, by mail, of the Director's decision. Such
24 decision shall be final and conclusive unless review is had
25 within the time and in the manner provided by Section 2205.

26 (Source: P.A. 85-956.)

27 (820 ILCS 405/1508.1) (from Ch. 48, par. 578.1)

28 Sec. 1508.1. Cancellation of Benefit Wages and Benefit
29 Charges Due to Lack of Notice. A. It is the purpose of this
30 Section to provide relief to an employer who has accrued
31 benefit wages or benefit charges resulting from the payment of
32 benefits of which such employer has not had notice. Whenever
33 any of the following actions taken by the Department directly

1 results in the payment of benefits to an individual and hence
2 causes the individual's wages to become benefit wages in
3 accordance with the provisions of Sections 1501 and 1502 or
4 causes the benefits to become benefits charges in accordance
5 with Sections 1501.1 and 1502.1, such benefit wages or benefit
6 charges shall be cancelled if the employer proves that the
7 Department did not give notice of such actions as required by
8 Section 804 within the following periods of time:

9 1. With respect to the notice to the most recent employing
10 unit or to the last employer (referred to in Section 1502.1)
11 issued under Section 701, within 180 days of the date of the
12 initial finding of monetary eligibility;

13 2. With respect to notice of a decision pursuant to Section
14 701 that the employer is the last employer under Section
15 1502.1, within 180 days of the date of the employer's protest
16 or appeal that he is not the last employer under Section
17 1502.1;

18 3. With respect to a determination issued under Section 702
19 and the rules of the Director, within 180 days of the date of
20 an employer's notice of possible ineligibility or remanded
21 decision of the administrative law judge ~~Referee~~ which gave
22 rise to the determination, except that in the case of a
23 determination issued under Section 702 in which an issue was
24 not adjudicated at the time of the employer's notice of
25 possible ineligibility because of the individual's failure to
26 file a claim for a week of benefits, within 180 days of the
27 date on which the individual first files a claim for a week of
28 benefits;

29 4. With respect to a reconsidered finding or a reconsidered
30 determination issued under Section 703, within 180 days of the
31 date of such reconsidered finding or reconsidered
32 determination;

33 5. With respect to an administrative law judge's ~~a~~
34 ~~Referee's~~ decision issued under Section 801 which allows

1 benefits, within 180 days of the date of the appeal of the
2 finding or determination of the claims adjudicator which was
3 the basis of the administrative law judge's ~~Referee's~~ decision;

4 6. With respect to a decision of the Director ~~or his~~
5 ~~representative~~ concerning eligibility under Section 604,
6 within 180 days of the date of the report of the administrative
7 law judge ~~Director's Representative~~.

8 B. Nothing contained in this Section shall relieve an
9 employer from the requirements for application for revision to
10 a statement of benefit wages or statement of benefit charges
11 pursuant to Section 1508 or any other requirement contained in
12 this Act or in rules promulgated by the Director.

13 C. The Director shall promulgate rules to carry out the
14 provisions of this Section.

15 (Source: P.A. 86-3.)

16 (820 ILCS 405/1800) (from Ch. 48, par. 630)

17 Sec. 1800. Records and reports required of employing units
18 - Inspection. Each employing unit shall keep such true and
19 accurate records with respect to services performed for it as
20 may be required by the rules and regulations of the Director
21 promulgated pursuant to the provisions of this Act. Such
22 records together with such other books and documents as may be
23 necessary to verify the entries in such records shall be open
24 to inspection by the Director or his authorized representative
25 at any reasonable time and as often as may be necessary. Every
26 employer who is delinquent in the payment of contributions
27 shall also permit the Director or his representative to enter
28 upon his premises, inspect his books and records, and inventory
29 his personal property and rights thereto, for the purpose of
30 ascertaining and listing the personal property owned by such
31 employer which is subject to the lien created by this Act in
32 favor of the Director of Employment Security. Each employing
33 unit which has paid no contributions for employment in any

1 calendar year shall, prior to January 30 of the succeeding
2 calendar year, file with the Director, on forms to be furnished
3 by the Director at the request of such employing unit, a report
4 of its employment experience for such periods as the Director
5 shall designate on such forms, together with such other
6 information as the Director shall require on such forms, for
7 the purpose of determining the liability of such employing unit
8 for the payment of contributions; in addition, every newly
9 created employing unit shall file such report with the Director
10 within 30 days of the date upon which it commences business.
11 The Director, the Board of Review, or any administrative law
12 judge ~~Referee~~ may require from any employing unit any sworn or
13 unsworn reports concerning such records as he or the Board of
14 Review deems necessary for the effective administration of this
15 Act, and every such employing unit or person shall fully,
16 correctly, and promptly furnish the Director all information
17 required by him to carry out the purposes and provisions of
18 this Act.

19 (Source: P.A. 83-1503.)

20 (820 ILCS 405/2202) (from Ch. 48, par. 682)

21 Sec. 2202. Finality of finding of claims adjudicator,
22 administrative law judge ~~Referee~~ or Board of Review ~~in~~
23 ~~proceedings before the director or his representative~~. If at
24 any hearing held pursuant to Sections 2200 or 2201 ~~before the~~
25 ~~Director or his duly authorized representative~~ it shall appear
26 that, in a prior proceeding before a claims adjudicator,
27 administrative law judge ~~Referee~~ or the Board of Review, a
28 decision was rendered in which benefits were allowed to a
29 claimant, based upon a finding by such claims adjudicator,
30 administrative law judge ~~Referee~~ or the Board of Review, as the
31 case may be, that (A) the petitioning employing unit is an
32 employer as defined by this Act, or (B) the claimant has
33 rendered services for such employing unit that constitute

1 employment as defined by this Act, or (C) the claimant was paid
2 or earned, as the case may be, any sum that constitutes "wages"
3 as defined by this Act, and that such employing unit was given
4 notice of such prior proceedings and an opportunity to be heard
5 by appeal to such administrative law judge ~~Referee~~ or the Board
6 of Review, as the case may be, in such prior proceeding, and
7 that such decision of the claims adjudicator, administrative
8 law judge ~~Referee~~ or Board of Review allowing benefits to the
9 claimant became final, the aforementioned finding of the claims
10 adjudicator, administrative law judge ~~Referee~~ or the Board of
11 Review, as the case may be, shall be final and incontrovertible
12 as to such employing unit, ~~in the proceedings before the~~
13 ~~Director or his duly authorized representative~~, and shall not
14 be subject to any further right of judicial review by such
15 employing unit. If, after the hearing held pursuant to Sections
16 2200 or 2201, the Director shall find that services were
17 rendered for such employing unit by other individuals under
18 circumstances substantially the same as those under which the
19 claimant's services were performed, the finality of the
20 findings made by the claims adjudicator, administrative law
21 judge ~~Referee~~ or the Board of Review, as the case may be, as to
22 the status of the services performed by the claimant, shall
23 extend to all such services rendered for such employing unit,
24 but nothing in this Section shall be construed to limit the
25 right of any claimant to a fair hearing as provided in Sections
26 800, 801, and 803.

27 (Source: P.A. 77-1443.)

28 (820 ILCS 405/2203) (from Ch. 48, par. 683)

29 Sec. 2203. Service of notice-Place of hearing-By whom
30 conducted.

31 Whenever service of notice is required by Sections 2200 or
32 2201, such notice shall be deemed to have been served when
33 deposited with the United States certified or registered mail

1 addressed to the employing unit at its principal place of
2 business, or its last known place of business or residence, or
3 may be served by any person of full age in the same manner as is
4 provided by statute for service of process in civil cases. If
5 represented by counsel in the proceedings before the Director,
6 then service of notice may be made upon such employing unit by
7 mailing same to such counsel. All hearings provided for in
8 Sections 2200 and 2201 shall be held in the county wherein the
9 employing unit has its principal place of business in this
10 State, provided that if the employing unit has no principal
11 place of business in this State, such hearing may be held in
12 Cook County, provided, further, that such hearing may be held
13 in any county designated by the Director if the petitioning
14 employing unit shall consent thereto. The hearings shall be
15 conducted by the Director or by any administrative law judge
16 ~~full time employee of the Director~~, selected in accordance with
17 the provisions of the "Personnel Code" enacted by the
18 Sixty-Ninth General Assembly, by him designated. Such
19 administrative law judge ~~representative so designated by the~~
20 ~~Director~~ shall have all powers given the Director by Sections
21 1000, 1002, and 1003 of this Act.

22 (Source: Laws 1957, p. 2667.)

23 (820 ILCS 405/2300) (from Ch. 48, par. 700)

24 Sec. 2300. Conduct of hearings-Evidence.

25 The Director may adopt regulations governing the conduct of
26 hearings held pursuant to any provisions of this Act. All such
27 hearings shall be conducted in a manner provided by such
28 regulations whether or not they prescribe a procedure which
29 conforms to the common law or statutory rules of evidence or
30 other technical rules or procedure, and no informality in the
31 manner of taking testimony, in any such proceeding, nor the
32 admission of evidence contrary to the common law rules of
33 evidence, shall invalidate any decision ~~made by the Director~~.

1 (Source: Laws 1951, p. 32.)

2 (820 ILCS 405/2306) (from Ch. 48, par. 706)

3 Sec. 2306. Certified copies of decisions or notices as
4 evidence. A copy of any finding or decision of a claims
5 adjudicator, administrative law judge ~~Referee~~ or the Board of
6 Review and of any decision, order, ruling, determination and
7 assessment, statement of benefit wages, statement of benefit
8 charges, or rate determination made by the Director, and of any
9 notice served by the Director, upon certification by the
10 Commissioner of Unemployment Compensation or the Director to be
11 a true and correct copy, and further certification that the
12 records of the Director disclose that it was duly served upon
13 the employing unit therein named, shall be admissible into
14 evidence in all hearings and judicial proceedings as prima
15 facie proof that it was made, rendered, or issued and that it
16 was duly served upon such employing unit at the time and in the
17 manner stated in such certification.

18 (Source: P.A. 85-1009.)".